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GENERAL COUNSEL
OF COPYRIGHT

In the Matter of)
)
)

DISTRIBUTION OF THE 1998 AND 1999)
CABLE ROYALTY FUNDS)
)

Docket No. 2001-8 CARP CD 98-99

**RESPONSE OF THE JOINT SPORTS CLAIMANTS
TO THE PANEL'S SEPTEMBER 25 ORDER**

The Joint Sports Claimants ("JSC") hereby respond to the Copyright Arbitration Royalty Panel's ("Panel") Order dated September 25, 2003. In that Order, the Panel asked the parties to address two questions. The questions are repeated below, with the JSC's response following thereafter.

- (1) In Appendix E of their Proposed Findings of Fact and Conclusions of Law, did Canadians erroneously use 1998 Bortz data, rather than 1999 Bortz data, in their calculation of the 3.75% Fund shares for 1999?

Canadian Claimants acknowledged in their August 28 motion for acceptance of corrected versions of their proposed findings that both Appendix D and E of the Canadian Claimants' original proposed findings erroneously used 1998 Bortz data. Canadian Claimants provided corrected versions of Appendix D and E to the Panel in connection with that motion. The Panel granted that motion in its September 10 Order. Accordingly, the corrected versions of the Canadian Claimants' proposed findings no longer contain the error cited by the Panel in its September 25 Order.

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- (2) Does any party contend that Music should not receive the same share for the 3.75% Fund and the Syndex Fund as for the Basic Fund? If so, please state why and cite the record evidence supporting your contention.

JSC do not contend that the Music Claimants should receive a different share of the 3.75% Fund than the Basic Fund.¹ In their Proposed Findings, JSC recommended that the Music Claimants receive no more than 2% of both the 1998 and 1999 Basic and 3.75% Funds. See JSC PFOF at p. 3 and ¶422.

In the only litigated proceeding involving Music Claimants' share of the 3.75% fund – the 1983 distribution proceeding – Music Claimants received the same share of 3.75% Fund royalties as they did of Basic Fund royalties. In its determination, the Copyright Royalty Tribunal held that the Music Claimants' share of the 3.75% Fund should be the same as the Basic Fund because "Music has never presented any claim that their contribution to the works on the 3.75% stations [was] somehow different than on stations carried at the statutory rate, and can see no justification for treating them differently." *1983 Cable Royalty Distribution Proceeding*, 51 Fed. Reg. 12792, 12813 (April 15, 1986). Music Claimants have not presented any evidence in this proceeding justifying a departure from that precedent.

¹ Consistent with their Proposed Findings, JSC take no position with regard to the Syndex Fund.

Respectfully Submitted,



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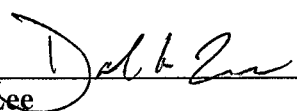
October 2, 2003

CERTIFICATE OF SERVICE
Docket No. 2001-8 CARP CD 98-99

I hereby certify that copies of the foregoing Response of the Joint Sports Claimants to the Panel's September 25 Order was sent on October 2, 2003, by electronic mail and First Class mail, to the following parties:

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